IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS BEAUMONT DIVISION

LIBERTY DAYTON REGIONAL

MEDICAL CENTER, L.L.C.,

Plaintiff,

V.

UNITED STATES OF AMERICA; THE CIT \$
GROUP/EQUIPMENT FINANCING, INC.
D.B.A. TOSHIBA AMERICA MEDICAL \$
CREDIT, GUNNAR ERICKSON, \$
HALLMARK REHABILITATION GP,
LLC, JACKIE LEONARD, CITY OF \$
LIBERTY, and LIBERTY COUNTY, \$
Defendants.

MOTION FOR ENTRY OF DEFAULT AND DEFAULT JUDGMENT

Liberty Dayton Regional Medical Center, L.L.C. ("Plaintiff") hereby moves, pursuant to Fed. R. Civ. P. 55, for entry of default and entry of a default judgment against Liberty County.

Plaintiff had actual possession or control of property in dispute worth a total of \$235,000 to which multiple parties, including Liberty County, may make a claim. Plaintiff deposited \$235,000 with the Court.

Plaintiff filed its bill of interpleader and notice of tender on August 3, 2010. (See Ex. A.) The summons and complaint were served to Liberty County on August 6, 2010. (See Ex. B.) Based on the August 6, 2010 and August 8, 2010 service dates, Liberty County was required to answer or otherwise respond by August 30, 2010, which Liberty County failed to do. (Ex. C.) As of the date of this motion, Liberty County still has not answered or filed any appearance or response to Plaintiff's bill of interpleader and notice of tender. (Ex. C.) Accordingly, Plaintiff is

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entitled to a default judgment against Liberty County and a release from all liability to Liberty County. Liberty County has failed to answer or respond to this suit, it has no right or claim to the \$235,000 in interpleader funds.

WHEREFORE, PREMISES CONSIDERED, Plaintiff asks that the Court grant this Motion and sign the Order of Entry of Default and Default Judgment against Liberty County, releasing and discharging Plaintiff from all liability to Liberty County.

Dated: January 28, 2011

Respectfully submitted,

Jason E. Williams

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Counsel for Plaintiff

Liberty Dayton Regional Medical Center, LLC

CERTIFICATE OF SERVICE

This pleading, Motion for Entry of Default and Default Judgment, was served in compliance with Rule 5 of the Federal Rules of Civil Procedure by e-filing or certified mail, return receipt requested, to all counsel as listed below on January 28, 2011:

G. Hobart Miller
Trial Attorney
U.S. Department of Justice
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B. Scot Pierce Brackett & Ellis 100 Main Street Fort Worth, TX 76102 County Judge Phil Fitzgerald Liberty County Courthouse 1923 Sam Houston Street Liberty, TX 77575 Randall P. Gunter Brandon S. Davis Fielder and Gunter 310 Main Street Liberty, TX 77575

Jason E. Williams